THE HON'BLE SRI JUSTICE C.PRAVEEN KUMAR

CIVIL REVISION PETITION No.3341 of 2018

ORDER:

1) Inspite of service of notice, there is no representation on behalf of the respondents.

2) Aggrieved by the order, dated 23.04.2018, passed in I.A.No.217 of 2018 in S.O.P.No.202 of 2012, on the file of the Special Judge for Trial of Cases under SCs/STs (POA) Act-cum-X Additional District and Sessions Judge, East Godavari at Rajahmundry, wherein an application filed under Order XVIII Rule 17 and Section 151 of C.P.C., to recall R.W.1 for cross-examination, was allowed, the present Civil Revision Petition is filed under Article 227 of the Constitution of India.

3) The facts in issue are as under:

The first respondent along with respondents 10 to 12 herein filed Society O.P.No.202 of 2012 seeking the following reliefs:-

> a) for declaration of resolution dated 05.09.2005 passed by the Special General Body, amending the articles of association by filling up vacancy in the Executive Committee through induction of any other member in the place of the member belonging to

Christian Minority Community, is fabricated, untrue and illegal,

b) and to declare that the resolution dated 01.08.2007 in Special Executive Committee accepting the alleged resignation of the petitioners and consequent cessation of petitioners to be members of executive committee of the 1st respondent society is also fabricated, illegal and untrue;

c) to render account of the society, 1st respondent since the time of financial year 2007 onwards till date;

d) for dissolution or winding up of the 1st respondent society. But the said petition was dismissed for default on 02.01.2018.

4) When the said S.O.P., was posted for cross-examination of R.W.1, the petitioners therein failed to appear before the court and also on earlier dates. The trial court dismissed the said S.O.P. for default on 02.01.2018. Subsequently, on 21.02.2018 the 1st respondent herein filed the present petition along with other petitions viz., for condoning the delay in filing the restoration petition and to set-aside the order of dismissal for default.

5) A counter came to be filed by the respondents opposing the averments made in the petition.

6) As seen from the record, though a counter is filed in the petition opposing the application filed, the trial Court passed the following order:

> "Taking into consideration of undisputed petition averments, petition is allowed by recall RW.1 for cross-examination by 1st petitioner."

7) A reading of the above order shows that the order came to be passed without any reasoning. This order is bereft of any reasons more so as urged by the counsel that though a counter is filed, the impugned order came to be passed as if the averments in the application are not disputed. The Court below ought to have passed an order stating as to what are those un-disputed averments which made the Court below to pass the order.

8) Hence, the order under challenge is set aside and the matter is remanded back to the trial Court for disposal of the same in accordance with law after hearing all the concerned by giving reasons, as early as possible.

9) With the above direction, the Civil Revision Petition is disposed of. There shall be no order as to costs. Miscellaneous Petitions, if any, pending in this Civil Revision Petition, shall stand closed.

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JUSTICE C. PRAVEEN KUMAR

03.08.2018
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